

FILED 09 AUG 05 13:42 USDC-OR

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,	)	No. 09-mj-4012-CL
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
v.	)	
	)	
DAVID D. EVERIST,	)	
	)	
Defendant.	)	

**PANNER, Judge.**

David Everist was cited for leaving litter, refuse, or debris in an exposed or unsanitary condition, in violation of 36 C.F.R. § 261.11(b). The site was a mining camp Everist had occupied within the Rogue River-Siskiyou National Forest. The officer who issued the citation had repeatedly warned Everist, over a period of months, to clean up the mining camp.

Everist moved to dismiss the citation, arguing that because the situs was a mining claim the United States Forest Service "has no authority or jurisdiction." Everist also argued that the officer issuing the citation "committed a Tress Pass and 'Compensable Taking'" for which Everist sought \$10,000 in

/ / / /

damages. Everist asserted various legal theories and authorities to support his contentions.

On July 2, 2009, Magistrate Judge Clarke conducted a court trial, and heard the evidence and arguments. Judge Clarke concluded that Everist's jurisdictional arguments lack merit. Judge Clarke found Everist guilty of violating the regulation as charged in the citation, and imposed a \$200 fine along with \$35 in fees and special assessment, for a total of \$235.

Everist now appeals that determination to this court.

"In all cases of conviction by a United States magistrate judge an appeal of right shall lie from the judgment of the magistrate judge to a judge of the district court of the district in which the offense was committed." 18 U.S.C. § 3402.

The court has reviewed Everist's arguments, the written record, and the recorded proceedings at trial. The decision of the Magistrate Judge is affirmed.

**Conclusion**

Everist's appeal (docket # 6) is denied. The decision of the Magistrate Judge (docket # 3) is affirmed.

IT IS SO ORDERED.

DATED this 5 day of August, 2009.

A handwritten signature in black ink, appearing to read "Owen M. Panner", is written over a horizontal line.

Owen M. Panner  
United States District Judge